

# KING & SPALDING

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August 1, 2014

**VIA E-MAIL TRANSMISSION  
AND ECF FILING**

The Honorable Robert E. Gerber  
United States Bankruptcy Judge  
United States Bankruptcy Court  
Southern District of New York  
Alexander Hamilton Custom House  
One Bowling Green  
New York, New York 10004

**Re: In re Motors Liquidation Company, et al.**  
**Case No. 09-50026 (REG)**

**New GM'S Request for Conference in Connection with Its  
Additional Motions to Enforce Sale Order and Injunction**

Dear Judge Gerber:

King & Spalding LLP is co-counsel with Kirkland & Ellis LLP for General Motors LLC (“**New GM**”) in the above-referenced matter. Your Honor is currently presiding over a motion (“**Ignition Switch Motion to Enforce**”) brought by New GM (and related proceedings) seeking to enforce this Court’s July 5, 2009 Order (and the injunction granted therein) (“**Sale Order and Injunction**”) against plaintiffs who commenced lawsuits (“**Ignition Switch Actions**”) against New GM seeking economic loss damages in connection with New GM’s recall of vehicles manufactured and sold by Old GM, that may have a defective ignition switch. Immediately upon filing the Ignition Switch Motion to Enforce, New GM sought a conference before Your Honor to address logistics surrounding same. The Court granted New GM’s request, has conducted two conferences respecting the Ignition Switch Motion to Enforce, and that contested matter has proceeded in an orderly fashion.

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Since filing the Ignition Switch Motion to Enforce, New GM has instituted various other recalls concerning, in part, Old GM vehicles and/or parts. As a result, New GM has been named as a defendant in additional lawsuits (“**Monetary Relief Actions**”) by Plaintiffs seeking monetary and other relief against New GM based on these additional recalls. As was the case with the Ignition Switch Actions, New GM believes that the Monetary Relief Actions assert claims against New GM that are, at least in part, “Retained Liabilities” of Old GM and therefore, violate the Sale Order and Injunction.

In addition, since announcing the recalls, New GM has been named as a defendant in other lawsuits (“**Pre-Closing Accident Lawsuits**”) by Plaintiffs who are asserting claims against New GM that emanate from an accident that occurred *prior to* the closing of the sale from General Motors Corporation (n/k/a Motors Liquidation Company) to New GM. New GM believes that the Pre-Closing Accident Lawsuits assert claims against New GM that are “Retained Liabilities” of Old GM and therefore, also violate the Sale Order and Injunction.

Today, New GM will be filing the following two motions with the Bankruptcy Court:

- (i) A motion seeking an order enforcing the Sale Order and Injunction by directing the plaintiffs (collectively, the “**Monetary Relief Plaintiffs**”) in the Monetary Relief Actions (a) to cease and desist from further prosecuting against New GM the claims in the Monetary Relief Actions that are already barred and enjoined by the Sale Order and Injunction, (b) to dismiss, with prejudice, those claims that are void because they were brought by the Monetary Relief Plaintiffs in violation of the Sale Order and Injunction, and (c) to specifically identify any claims that are not otherwise already barred and enjoined by the Sale Order and Injunction (“**Monetary Relief Motion to Enforce**”); and
- (ii) A motion seeking an order directing the Plaintiffs (“**Pre-Closing Accident Plaintiffs**”) in the Pre-Closing Accident Lawsuits commenced against New GM that concern damages arising from accidents that occurred prior to the closing of the 363 Sale, to cease and desist from further prosecuting against New GM, or otherwise pursuing against New GM, the claims asserted in the Pre-Closing Accident Lawsuits, and directing Pre-Closing Accident Plaintiffs to dismiss the Pre-Closing Accident Lawsuits with prejudice immediately (“**Pre-Closing Accident Motion to Enforce**”).<sup>1</sup>

While there are not nearly as many Monetary Relief Actions or Pre-Closing Accident Lawsuits as there are Ignition Switch Actions, New GM expects that number to increase. Moreover, the issues raised in the Monetary Relief Motion to Enforce and the Pre-Closing Accident Motion to Enforce are similar to those raised in the Ignition Switch Motion to Enforce.

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<sup>1</sup> As explained in the Pre-Closing Accident Motion to Enforce, many of the plaintiffs implicated by that Motion will have the opportunity to participate in the Feinberg Protocol (as defined in that Motion).

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Accordingly, New GM, like it did with respect to the Ignition Switch Motion to Enforce, requests that the Court schedule a conference to discuss the logistics surrounding the Monetary Relief Motion to Enforce and the Pre-Closing Accident Motion to Enforce, including whether proceedings regarding same should be coordinated with the proceedings governing the Ignition Switch Motion to Enforce. It should be noted that there is a significant overlap between counsel involved in the Ignition Switch Motion to Enforce and counsel involved in the two Motions being filed today. New GM believes that a status or pre-hearing conference would again be beneficial to all of the parties and the Court, and would streamline the proceedings.<sup>2</sup> A proposed form of notice is attached hereto, which will set forth the date and time of the conference regarding the Monetary Relief Motion to Enforce and the Pre-Closing Accident Motion to Enforce (“**Conference Notice**”). New GM notes that the next Conference date for the Ignition Switch Motion to Enforce is August 18, 2014, and that may be an appropriate date to also have the conference for these Motions.

New GM will serve upon (i) all counsel in the Monetary Relief Actions and in the Pre-Closing Accident Lawsuits, (ii) counsel who are taking the lead in connection with the Ignition Switch Motion to Enforce (*i.e.*, “Designated Counsel” as that term has been defined in connection with the Ignition Switch Motion to Enforce, and counsel for the *Groman* Plaintiffs, who commenced an Ignition Switch Action); (iii) counsel for the Motors Liquidation Company General Unsecured Creditors Trust (“**GUC Trust**”), (iv) counsel for holders of GUC Trust units, and (v) the Office of the United States Trustee, by e-mail transmission, where available, or overnight delivery, on or before August 6, 2014 (a) a copy of this letter and form Conference Notice, and (b) the Motions to Enforce, the Schedules, and all Exhibits thereto. New GM will also file this letter, the Motions to Enforce, Schedules and all Exhibits on the Bankruptcy Court docket, and deliver a hard copy to Chambers.

Of course, if Your Honor believes a different procedure is appropriate, we are prepared to follow Your Honor’s directive.

Respectfully submitted,

/s/ *Arthur Steinberg*

Arthur Steinberg

cc: Richard C. Godfrey, P.C. (co-counsel for New GM)  
Andrew B. Bloomer, P.C. (co-counsel for New GM)

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<sup>2</sup> This request is made pursuant to and in accordance with Your Honor’s Chambers’ rules governing requests for conferences.

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*Counsel for General Motors LLC*

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11  
: :  
MOTORS LIQUIDATION COMPANY, *et al.*, : Case No.: 09-50026 (REG)  
f/k/a General Motors Corp., *et al.* :  
: (Jointly Administered)  
Debtors. :  
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**NOTICE OF (A) FILING OF (I) MOTION OF GENERAL MOTORS LLC  
PURSUANT TO 11 U.S.C. §§ 105 AND 363 TO ENFORCE THE COURT'S  
JULY 5, 2009 SALE ORDER AND INJUNCTION (MONETARY RELIEF  
ACTIONS, OTHER THAN IGNITION SWITCH ACTIONS), AND (II) MOTION OF  
GENERAL MOTORS LLC PURSUANT TO 11 U.S.C. §§ 105 AND 363 TO ENFORCE  
THIS COURT'S JULY 5, 2009 SALE ORDER AND INJUNCTION AGAINST  
PLAINTIFFS IN PRE-CLOSING ACCIDENT LAWSUIT, AND  
(B) CONFERENCE TO BE HELD IN CONNECTION WITH SUCH MOTIONS**

1. **PLEASE TAKE NOTICE** that on August 1, 2014, General Motors LLC ("New  
GM") filed with the United States Bankruptcy Court for the Southern District of New York the  
following motions: (i) the *Motion of General Motors LLC Pursuant to 11 U.S.C. §§ 105 and  
363 to Enforce the Court's July 5, 2009 Sale Order and Injunction (Monetary Relief Actions,*

*Other Than Ignition Switch Actions*) (“**Monetary Relief Motion to Enforce**”), and (2) *Motion Of General Motors LLC Pursuant To 11 U.S.C. §§ 105 And 363 To Enforce This Court’s July 5, 2009 Sale Order And Injunction Against Plaintiffs In Pre-Closing Accident Lawsuits* (“**Pre-Closing Accidents Motion to Enforce**,” and with the Monetary Relief Motion to Enforce, the “**Motions**”).

**PLEASE TAKE FURTHER NOTICE** that briefing schedules and hearing dates have not yet been established for the Motions. Instead, the Bankruptcy Court has scheduled a conference to discuss the logistics surrounding the Motions, including whether proceedings regarding same should be coordinated with the proceedings governing New GM’s previously filed Ignition Switch Motion to Enforce. The conference will take place before the Honorable Robert E. Gerber, United States Bankruptcy Judge, in Room 523 of the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004, on \_\_\_\_\_, **2014 at 9:45 a.m.**

Dated: New York, New York  
August \_\_, 2014

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